

REMARKS

This Amendment is submitted in answer to the Office Action dated February 25, 2008, having a shortened three month period set to expire May 25, 2008.

Information Disclosure Statement

In paragraph 2 of the present Office Action, the Examiner notes that the IDS filed November 19, 2007, inadvertently failed to include copies of the 3 cited foreign patent documents. Applicant has filed herewith a supplemental IDS in compliance with 35 CFR § 1.98(a)(2), which includes a copy of each of the 3 cited foreign patent document. Applicant respectfully requests consideration of these references.

Claim Rejections under 35 U.S.C. § 112, second paragraph

In paragraphs 3-4 of the present Office Action, Claims 24-29 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The rejection is moot in view of the cancellation of Claim 24 herein.

Claim Rejections under 35 U.S.C. § 102

In paragraphs 6-13 of the present Office Action, Claims 13, 15, 17, 20-21, 24, 26-32, 34 and 36-39 are rejected under 35 U.S.C. § 102 as unpatentable over U.S. Patent Publication No. 2004/0200434 to *Shatoff*. That rejection is respectfully traversed, and favorable reconsideration of the claims is requested.

Applicant respectfully submits that *Shatoff* does not render amended Claim 13 unpatentable under 35 U.S.C. § 102 (or § 103) because that reference does not disclose each feature of the present claims. For example, *Shatoff* does not disclose an “animal treat ball apparatus comprising ... a generally spheroidal outside surface,” as now recited in exemplary Claim 13. *Shatoff*'s intermediate union 650 (Figure 11), which is cited as disclosing the claimed animal treat ball apparatus, does not have a “generally spheroidal outside surface” as claimed, and therefore cannot render Claim 13 unpatentable under 35 U.S.C. § 102.

Shatoff also does not render exemplary Claim 13 unpatentable because *Shatoff* does not disclose:

a removable cap removably retained within the aperture and at least partially blocking the aperture, said removable cap having a substantially dome-shaped outer surface generally conforming to said truncated portion of said generally spheroidal outer surface such that rolling of said animal treat ball apparatus across the aperture is enhanced while said removable cap is retained within said aperture and diminished after removal thereof.

Support for the foregoing claim language can be found, for example, at page 7, lines 10-12 of the specification.

Shatoff does not disclose “said removable cap having a substantially dome-shaped outer surface generally conforming to said truncated portion of said generally spheroidal outer surface such that rolling of said animal treat ball apparatus across the aperture is enhanced while said removable cap is retained within said aperture and diminished after removal thereof.” As shown in *Shatoff*’s Figure 11, second toy 604, which is cited as teaching the claimed removable cap, does not “generally conform[] to said truncated portion of said generally spheroidal outer surface.” In addition, rolling of *Shatoff*’s animal toy system 600 is not enhanced while second toy 604 is retained within aperture 660 of intermediate union 650 and diminished after removal thereof, as set forth in Claim 13.

Because *Shatoff* does not identically disclose each feature of exemplary Claim 13, Applicant respectfully submits that *Shatoff* does not render Claim 13, similar independent Claim 31, and their respective dependent claims unpatentable under 35 U.S.C. § 102 (or § 103).

Claim Rejections under 35 U.S.C. § 103

In paragraphs 15-16 of the present Office Action, Claims 15, 25 and 35 are rejected under 35 U.S.C. § 103 as unpatentable over *Shatoff* in view of *McEvoy*. In addition, in paragraph 17 of the present Office Action, Claims 19 and 33 are rejected under 35 U.S.C. § 103 as unpatentable over *Shatoff* in view of U.S. Patent No. 6,634,318 to *Rucker*. Those rejections are overcome for at least the reasons set forth above with reference to exemplary Claim 13.

Conclusion

Having now addressed and overcome each outstanding rejection of the claims, Applicant respectfully submits that all claims now pending are in condition for allowance and respectfully requests such allowance.

No extension of time for this response is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to **Dillon & Yudell LLP Deposit Account No. 50-3083**.

Respectfully submitted,

A handwritten signature in black ink, reading "Brian F. Russell". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian F. Russell
Reg. No. 40,796
DILLON & YUDELL LLP
8911 N. Capital of Texas Hwy., Ste. 2110
Austin, Texas 78759
(512) 343-6116

ATTORNEY FOR APPLICANT(S)